



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree
under the Clean Water Act

On July 28, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of California in the lawsuit entitled *United States of America et al. v. East Bay Municipal Utility District et al.*, Consolidated Civil Action Nos. C 09-00186 and 09-05684.

The United States of America and the People of the State of California ex rel. California State Water Resources Control Board and California Regional Water Quality Control Board, San Francisco Bay Region (together "Water Boards"), and Plaintiff-Intervenors San Francisco Baykeeper ("Baykeeper") and Our Children's Earth Foundation ("Our Children's Earth"), brought claims under Sections 301 and 402 of the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, against East Bay Municipal Utility District ("EBMUD") and seven municipal defendants, including the City of Alameda, the City of Albany, the City of Berkeley, the City of Emeryville, the City of Oakland, the City of Piedmont and the Stege Sanitary District (together "Satellite Communities").

The United States, the Water Boards, Baykeeper and Our Children's Earth allege that (1) EBMUD is in violation of the Clean Water Act and its National Pollutant Discharge Elimination System ("NPDES") permit because it discharges from three wet weather facilities that have been prohibited since 2009; (2) the Satellite Communities are in violation of the Act and the operation and maintenance provisions of their NPDES permits because they contribute excessive flow to collection and treatment systems owned and operated by EBMUD, which causes EBMUD to discharge from the wet weather facilities; and (3) all defendants are in violation of the Clean Water Act and their NPDES permits because they have unlawful sanitary sewer overflows ("SSOs") during wet weather.

The proposed Consent Decree implements a regional asset management program that puts the defendants on a path to eliminate prohibited wet weather facility discharges by December 31, 2035, and to control SSOs within ten years of Decree entry. Among other things, the defendants will rehabilitate and clean sanitary sewer infrastructure, identify and eliminate sources of inflow and rapid infiltration to the sewer systems, and continue to require repair or replacement of private sewer laterals under local and regional ordinances.

In addition, each defendant will pay a civil penalty for its past violations, for a total of \$1,563,556 in civil

penalties. EBMUD will pay \$201,600; the City of Alameda will pay \$111,150; the City of Albany will pay \$42,038; the City of Berkeley will pay \$267,000; the City of Emeryville will pay \$1,870; the City of Oakland will pay \$850,000; the City of Piedmont will pay \$41,038; and the Stege Sanitary District will pay \$48,860.

The proposed Consent Decree replaces a January 2009 interim settlement with EBMUD and a March 2011 interim settlement with the Satellite Communities.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America et al. v. East Bay Municipal Utility District et al.*, D.J. Ref. No. 90-5-1-1-09361. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Department of Justice website: http://www.usdoj.gov/enrd/Consent_Decrees.html. We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$54.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

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